

ORDINANCE NUMBER 2020-10

**AN ORDINANCE OF THE TOWN OF PARADISE VALLEY,
ARIZONA, AMENDING CHAPTER 10 OFFENSES, SECTION
10-13-2, DEFINITIONS; SECTION 10-13-3, UNRULY
GATHERINGS; AND SECTION 10-13-7, PENALTIES.**

**BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF
PARADISE VALLEY, ARIZONA:**

Section 1. Chapter 10, Offenses, Section 10-13-2 is hereby amended (with deletions shown as ~~striketroughs~~ and additions shown in **bold type**):

10-13-2 Definitions

In the Article, unless the context otherwise requires, the following terms or phrases are defined as follows:

1. “Increased Response” means the response of two or more uniformed officers to the scene of an Unruly Gathering in which eleven (11) or more persons are present and where it becomes necessary to restore the public peace, health, safety and/or general welfare.
2. “Juvenile” means a minor under the age of eighteen (18) years.
3. “Minor” means any person under the age of twenty-one (21) years.
4. “Owner” means any owner, as well as any agent of an owner such as a landlord, acting on behalf of the owner, who controls or otherwise regulates the occupancy or use of the property.
5. “Premises” means any property that is the site of an Unruly Gathering. For residential properties, Premises can mean the dwelling unit, units or other common areas where the unruly gathering occurs.
6. “Police Service Fee” means the fee to reimburse the cost of services provided by the Police Department in response to the Unruly Gathering. The Police Service Fee is more fully defined in §10-13-7(C).
7. “Responsible Person” means any person in attendance at an Unruly Gathering including any Owner, occupant, tenant, or tenant's guest or any sponsor, host or organizer of a social activity or special occasion **or Owner that was aware of the social activity or special occasion** constituting the Unruly Gathering, even if such person is not in attendance, **or any Owner who had been notified that an Unruly Gathering had previously occurred on the same Premises within one hundred eighty (180) days**

prior to a subsequent Unruly Gathering. If such a person is a Juvenile, the term "Responsible Person" includes, in addition to the Juvenile, the Juvenile's parents or guardians. Responsible Person does not include Owners or persons in charge of Premises where an Unruly Gathering takes place if the persons in attendance obtained use of the Premises through illegal entry or trespassing. A person need not be present at the time of the party, gathering or event to be deemed responsible.

8. "Special Security Assignment" means the police services provided during any call-in response to complaints or other information regarding unruly gatherings.
9. "Unruly Gathering" means a gathering of five (5) or more persons on any private property, including property used to conduct business, **which constitutes a threat to the public peace, health, safety or general welfare including, but not limited to:** ~~in a manner which causes a disturbance of the quiet enjoyment of private or public property by any person or persons and also includes one of the following:~~ excessive noise, impeding traffic, obstruction of public streets by crowds or vehicles, use or possession of illegal drugs, drinking in public **areas**, the service of alcohol to minors or consumption of alcohol by minors, fighting, disturbing the peace, and/or littering.
10. "Unruly Gathering Notice (Notice)" means be a document identifying the Premises as the site of an Unruly Gathering in which a citation was issued and advising the Owner, occupants, guests or other persons entering the Premises that any future Unruly Gathering upon the Premises shall have additional consequences.

Section 2. Chapter 10, Offenses, Section 10-13-3, is hereby amended (with deletions shown as ~~strikethroughs~~ and additions shown in **bold type**):

Section 10-13-3 Unruly Gathering

- A. When ~~any~~ **a** police officer responds to any Unruly Gathering and that police officer determines that there is a **threat to the public peace, health, safety or general welfare, the police officer may issue a citation for Unruly Gathering to any Responsible Person. If the Responsible Person is the Owner and the Owner is not present and was not the sponsor, organizer or host of the event and the Owner had notice that an Unruly Gathering had occurred on the Premises within the prior one hundred eighty (180) days, the Owner shall be charged with a civil citation. All other Responsible Persons shall be charged with a class one misdemeanor.** ~~disturbance to the quiet enjoyment of public or private property, the police officer may issue a citation for Unruly Gathering. Said violation is a class 1 misdemeanor.~~
- B. A police officer may abate an Unruly Gathering by reasonable means including, but not limited to, citation or arrest of violators under applicable ordinances or state statutes, and dispersing any remaining gathered participants. Any participant not a tenant on a lease document who fails to disperse may be deemed a Responsible Person and cited for Unruly Gathering.

- C. The police officer or other police employees shall provide an Unruly Gathering Notice to the Responsible Person(s) and/or Owner in any of the following manners:
1. By personal service of any Responsible Person(s) being cited at the Unruly Gathering; or,
 2. By posting of the Notice on the door of the Premises of the Unruly Gathering; or,
 3. By mailing the Notice to the Owner, at the address shown on the Maricopa County property tax assessment records. Such notification shall be made by certified mail; with the return receipt serving as evidence of service.
- D. Any Responsible Person(s) receiving a citation for an Unruly Gathering requiring Increased Response shall be assessed a Police Service Fee for Special Security Assignments relating to the Unruly Gathering as provided §10-13-7(C). In the event of more than one person is identified as a Responsible Person, any and all Responsible Persons shall be jointly and severally responsible for the entire Police Service Fee.
- E. Upon request, the Owner must provide the names of any and all occupants listed on the leasing documents at any location where the Police Department responds to an Unruly Gathering.
- F. On a first offense, an Owner who was present at the Unruly Gathering and who made contact with the responding officers at the scene may apply retroactively for a special event permit under Article 8-8 of the Town Code of Paradise Valley by the close of business on the next business day. A special event permit may or may not be granted by the Town Manager retroactively.

Section 3. Chapter 10, Offenses, Section 10-13-7, is hereby amended (with deletions shown as ~~strike throughs~~ and additions shown in **bold type**):

Section 10-13-7

Penalties

- A. ~~For Responsible Person(s).~~ **Criminal Offense.** If the Responsible Person is convicted of an Unruly Gathering, the penalty shall be a minimum mandatory fine of one thousand dollars (\$1000.00) or up to the maximum associated with a class one misdemeanor. Additionally, if the Responsible Person for an Unruly Gathering has previously been convicted for an Unruly Gathering, regardless of the location of the prior violation, the penalty shall be a minimum mandatory fine of two thousand dollars (\$2,000.00) for a second ~~conviction~~ **violation**, and a minimum mandatory fine of two thousand five hundred dollars (\$2,500.00) for a third or subsequent violation.
- B. ~~For Premises.~~ **Civil Offense.** If the ~~Owner of a Premises is convicted of an Unruly Gathering, the penalty for conviction of an Unruly Gathering~~ **Responsible Person is an Owner that was not present at the Unruly Gathering, was not aware of the social**

activity or special occasion constituting the Unruly Gathering, and was not an organizer, host or sponsor of the Unruly Gathering, but had been notified that an Unruly Gathering had previously occurred on the property within one hundred eighty (180) days prior an Unruly Gathering, then the civil penalty shall be a minimum mandatory fine of one thousand dollars (\$1000.00) for a first violation, a minimum mandatory fine of two thousand dollars (\$2,000.00) for a second violation, and minimum mandatory fine of **the maximum amount permitted by law for civil violations ~~two thousand five hundred dollars (\$2,500.00)~~ for a third or subsequent violation.**

- C. Police Service Fee. The Police Service Fee shall be an amount equal to the actual costs (essentially a reimbursement) of the law enforcement response to an Unruly Gathering, including:
1. the salaries, and associated benefits of the responding law enforcement officers corresponding to the amount of time actually spent in responding to and remaining at the Unruly Gathering; and,
 2. the salaries, and associated benefits of any dispatcher or other police personnel involved with the response for the amount of time actually spent in responding to Unruly Gathering; and
 3. any actual costs of any medical treatment to injured officers and/or the costs of repairing any damage to town equipment or property; and
 4. the associated overhead costs including, but not limited to, vehicle and equipment used; with such overhead costs to be set annually within the first 60 days of the new fiscal year and available for inspection.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 5. Any person found guilty of violating any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed \$2,500, or imprisonment not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as described. A violation of the provisions of this Ordinance or amendments thereto may constitute a civil offense, and any person who is served with a citation charging such violation and who admits, or is found responsible for such offense shall be liable to pay to the Town a civil sanction in an amount not to exceed seven hundred fifty dollars. Each day that a violation continues shall be a separate offense punishable as described.

Section 6. Emergency. Whereas the immediate operation of the provisions of this ordinance is necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, and this ordinance shall be in full force and effective from and after its passage by the Council.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona,
this _____ day of _____, 2020.

Jerry Bien-Willner, Mayor

SIGNED AND ATTESTED TO THIS _____ DAY OF _____ 2020.

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Andrew M. Miller, Town Attorney